

## *What Smart Shoppers Know About*

# **Telephone, Mail Order, and Internet Sales**

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### **Buying Without Visiting the Mall**

Buying by telephone and mail is a convenient way of shopping for most consumers. As more people have access to a computer, and as more companies sell their products and services online, the Internet is also becoming a convenient way of shopping for most people. Consumers face more choices than ever before, not only when selecting merchandise, but in determining whether to shop through the mail, via the Internet, over the phone, at their local store, or the new mall outside of town. The following tips are what smart shoppers should know about purchasing merchandise through the mail, by telephone, or via the Internet.

### **Shop Carefully Before Buying**

First, do some comparison shopping. If the product you want is available locally, how does the local price compare with the telephone or Internet price? (Remember to add the price of handling and delivery for orders that are shipped.) Also consider the advantage of receiving the product right away from a local merchant, and of having the merchant nearby if problems develop. (But also remember the cost and time involved in getting to and from the mall.)

Watch out for offers that seem unbelievably cheap. The merchandise will most likely be of poor quality, or you may never receive it.

Most retail sellers allow a customer to return purchased merchandise within a reasonable time for a full cash refund, store credit, or an equal exchange. Find out the seller's return policy. Many sellers have a very limited return policy. Some do not allow returns. Can you return the item if the item is too large, or the color is not exactly right? Who pays for return postage? If the seller does not allow returns for full cash refunds, store credit or equal exchanges for at least seven days, the seller's refund policy must be conspicuously posted (Civil Code section 1723).

Find out if the quality and performance of the merchandise are guaranteed. Is there a warranty? If so, check the terms of the warranty. Are repair parts available? Can the item be repaired locally

## Shop Carefully Before Buying

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if it needs repair? Who pays for shipping if it needs to be returned to the seller for repair? How long will it take the seller to repair the product and return it to you?

Ask the seller for a more detailed description of the merchandise, and ask for a copy of the warranty, if one is offered, if you have any doubts about either.

Find out how long it will take the business to ship your order. If the business does not state a delivery time, the maximum time you must wait for shipment is 30 days, according to a Federal Trade Commission (FTC) rule, and a similar rule in effect in California. If the business does not ship the item within the proper time frame, it must notify you of the delay and give you the opportunity and a cost-free method to cancel the order and receive a refund.

It is safest to order from reputable merchants who are known to you, your family, or trusted friends. If you have not done business with the merchant before, and the purchase is especially large or important to you, check the business' reputation. If you have any doubt, call a local consumer protection agency or the Better Business Bureau to find out if they have received any complaints about the company. However, if the Better Business Bureau has not received complaints about a business, that does not necessarily mean there have not been any complaints. Unless you already know the company by its reputation, it is best not to start out with a big order. Instead, find out how the business handles one that is smaller or less important to you.

## If You Decide to Order

Your name, address, and product information (e.g., stock number, color, size) must be communicated clearly. If you want the item sent to someone else as a gift, it is especially important to give the correct name and address of the person you are sending it to. Most sellers also ask you to provide a means of quick and inexpensive communication, such as a telephone number or e-mail address. Since doing this will involve giving up some of your privacy, give it some thought before you do so.

Keep a copy of your order form and any letters you send to the business. If you order by telephone, make a note of the date, time, type of payment, and confirmation number. If you order over the Internet, print out a copy of your order. If the transaction does not pan out, this information may be of help.

Never send cash. Pay by check, money order, or credit card so that you have a record of payment. If you do not know the company or its reputation for integrity and competency, it is best to pay only by credit card, since you ordinarily can cancel the payment if the promised merchandise is not delivered.

## If You Decide to Order

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Examine the merchandise immediately when you receive it. Make sure it is what you wanted and ordered. If it is not, telephone or e-mail the business right away. All reputable mail, telephone, and Internet sellers maintain an easy-to-use method of returning such merchandise and either returning your payment or sending the merchandise you ordered. If things do not seem to be going right, notify the business in writing and keep a copy of your letter. Return any merchandise promptly for a refund or exchange.

## Before Buying Over the Internet

Internet shopping can be as safe and advantageous for consumers as shopping by telephone or mail. You have many more options, including purchase of air transportation, music, books, and almost anything else, but there are also some risks, which you can reduce by acting carefully and cautiously.

Most of the same common-sense cautions apply. For instance:

- It is risky to do business with companies you do not know, unless you have reason to trust them. Check out a company's reputation before you place a large or important order.
- Know where the company is physically located. Anyone, in any part of the world, can set up "shop" online. What happens if things do not go well?
- Do not be duped by a nice-looking Web site. That is what scammers count on. In fact, some Web sites are altogether fraudulent. A well-designed Web site is evidence of care and competence, but a lot more is required.
- In large or important transactions, do not send money or make commitments until you have the assurance that the other party has the ability to perform, and will in fact perform as promised.
- Never give out your bank account number or debit card number, even to companies that you trust.
- As a result of laws that protect consumers in credit card transactions, it is usually safer to pay by credit card than by any other means. Then, if you do not receive what you paid for, you ordinarily have an effective remedy—a right to withhold payment from the card issuer.
- Do not give out personal information that you do not want the seller to include in computer databases sold to others. When in doubt, read the seller's privacy security policy.
- Remember that private individuals sell items over the Internet, and that your legal rights and practical recourse against them may be very limited.

## Before Buying Over the Internet

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### If You Do not Receive the Merchandise

- Before you order, be especially clear on the price, shipping and handling charges, return policies, and delivery date.

The FTC rule states that the business must ship your merchandise within 30 days after the business receives your properly completed order, or within the advertised time period.

A business that cannot meet this deadline must notify you and give you the option of canceling the order and a free method of doing so (such as a postage-paid card). If you tell the business to cancel the order, it must cancel the order and refund your cash, check, or money order within seven work days (or credit your credit card account within one billing period).

If the new shipping date is 30 days or less after the original deadline for shipping, the business can assume that you agree to the delay in delivery if you do not respond to the notice of delay. The business must get your agreement to any delay over 30 days.

The FTC rule also requires the mail order business to have a reasonable basis for their claims about shipping dates.

The FTC rule does not apply to serial subscriptions such as magazines (after the initial shipment), orders of seeds and growing plants, or C.O.D. (cash on delivery) orders. However, you have the right to refuse merchandise sent C.O.D., if an unreasonable amount of time has passed since you ordered the merchandise, and you no longer want it.

### If You Receive Unsolicited Merchandise

Civil Code section 1584.5

It is illegal for a business to try to sell you something by sending you merchandise that you have not ordered or consented to receive. A business cannot send you unordered merchandise unless the merchandise is:

- a free sample which is clearly and conspicuously marked as such, or
- mailed by a charitable organization that is soliciting contributions and is marked as a gift.

If a business sends you something in the mail that you did not order or consent to receive, and has done so with the intention of selling it or another product or service to you, you have no obligation to either return the unordered item or pay for it. It is illegal for a company that sends unordered merchandise to follow the mailing with a bill

## If You Receive Unsolicited Merchandise

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### Where to Go for Help

or a demand for payment. (This rule does not apply where you have agreed with a business in advance to receive merchandise on a periodic basis, and it also does not apply to a good faith error on the part of the business that sent the merchandise.)

- **The Business.** First, communicate directly with the business. You can do this orally, or by e-mail, or by sending a letter. Describe the problem and how you want the business to resolve it. Keep a copy of any written communications and order forms. If your problem is not resolved, you should take further action. The following are agencies to contact.
- **The U.S. Postal Service.** Consumers who suspect they may have been victimized by a fraudulent scheme that used the U.S. Mail should contact their local Postal Inspector or Postmaster. Incidents of suspected mail fraud can be reported to the Inspection Service by completing PS Form 8165, Mail Fraud Questionnaire. This form is available at your local post office or can be requested via the e-mail ([fraud@uspis.gov](mailto:fraud@uspis.gov)).

If the Postal Service thinks you may have been a victim of fraud or misrepresentation, it can take civil action against the company, refer the case to the U.S. Attorney General for criminal action, or both. If it is proven that the company intentionally defrauded you and used the mail as part of the fraud, the company may be fined \$1,000, receive five years in prison or both for each count of fraud.

- **The Attorney General.** Write a letter of complaint to the California Department of Justice, Office of the Attorney General, Public Inquiry Unit, Post Office Box 944255, Sacramento, CA 94244-2550, or call 1-800-952-5225, or visit [www.caag.state.ca.us](http://www.caag.state.ca.us).
- **The District Attorney.** If the business is located in your county, your own District Attorney may be the best source of help. The consumer protection office of the District Attorney of your county may have received other complaints involving the same business along with the others. For the address of your District Attorney, check your local White Pages.

## Where to Go for Help

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- **The Federal Trade Commission.** Send a copy of your complaint letter to:

Federal Trade Commission

901 Market Street, Suite 570

San Francisco, CA 94103-1798; or

Federal Trade Commission

10877 Wilshire Boulevard, Suite 700


Los Angeles, CA 90024;

or call 1-877-FTC-HELP (1-877-382-4357), or visit [www.ftc.gov](http://www.ftc.gov).

Although the FTC does not mediate individual complaints, the information you provide may help show a pattern of fraud or other misconduct by a business, which would require action by the FTC.

## For Information on Other Consumer Topics

Visit the Department's website at [www.dca.ca.gov](http://www.dca.ca.gov) or call 1-800-952-5210.

 **California Department of Consumer Affairs**  
1625 North Market Blvd., Sacramento, CA 95834  
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